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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO.       |
|--|-------------|----------------------|----------------------------------|------------------------|
| 10/528,553   | 12/05/2005  | Colin Golding        | 370421-00221                     | 3966                   |
| 37509  | 7590        | 01/10/2008           |                                  |                        |
| DECHERT LLP<br>P.O. BOX 390460<br>MOUNTAIN VIEW, CA 94039-0460 |             |                      | EXAMINER<br>MCGRAW, TREVOR EDWIN |                        |
|  |             |                      | ART UNIT<br>3752                 | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>01/10/2008          | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/528,553             |  | GOLDING ET AL.      |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Trevor McGraw          |  | 3752                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 20-30 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Examiner's Comment***

Examiner acknowledges the cancellation of Claims 17 and 19. Also, the indicated allowability of claims 22-27 and 30 is withdrawn upon further consideration of the previously applied prior art reference(s) of record to Wang (US 5,908,126) and Beckmann (US 2,511,560). Revised rejections based on the cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (US 5,908,126).

In regard to Claim 22 and 32, Wang (US 5,908,126) teaches a device which is configured to distribute fluid and non-fluid material having a container (40) with a discharge opening (Opening that "50" extends through in Figure 1) where product is distributed and where a duct member (11, 12) is connected to the discharge opening (232) and provides for a tubular discharge channel (13) for the product where the duct member (11, 12) is foldable between a working position (See Figure 4 where "11" and "12" are extended up and allows "232" to be open to atmosphere via "13") where the duct member (11, 12) projects away from the container (40) and allows passage of

product through the discharge opening along the distribution channel (13) and a storage position (See Figure 5 where "11" and "12" are folded over) where the duct member (11, 12) obturates or blocks the discharge opening (232) and extends over the top of the container (See extension of the duct member "11" and "12" over container in Figure 5). The locking member (32) of Wang is manipulatable to locate the duct member (11,12) in a working position (when duct member is raised) and prevents relative releasing movement between a duct connector (20) and a container (40).

In regard to Claim 20, Wang also teaches where a duct connector (20) is attached over the discharge opening (232) and carries the duct member (13) where the duct connector (20) attaches to the container (40) over the discharge opening (232) by a threaded twist locking mechanism (Column 1, lines 5-10).

In regard to Claim 21, Wang further teaches where the duct connector (20) has an opening ("232" extends through the duct connector "20", see Figures 2-5) surrounded by an upstanding wall (23), and the duct member (11,12) is configured so that the inner end (231) rides against the top of the upstanding wall (23) to enable an entry end of the distribution channel (13) of the duct member (11,12) to be brought into communication with the opening and thus the discharge opening (232) of the container (40) when the duct member (11,12) is in the working position.

With regard to Claims 23-25, Wang further teaches where the locking member (32) also serves to close an entry end of the distribution channel (13) when the duct member (11,12) is in the storage position (closed position) and the locking member (32) is carried by the duct connector (20). The locking member (32) is manipulatable

angularly (sweeping motion in an obtuse to acute angle by pivotal motion) relative to the duct connector (20) to locate the duct member (11, 12) in the working position (open standing up position).

With regard to Claims 26 and 27, Wang teaches where the locking member (32) is pivotally attached to the duct connector (20) for angular manipulation by a snap-fit engagement of a pair of co-axial studs (121) with stirrup mountings (22).

In regard to Claims 28 and 29, Wang additionally teaches where the duct member (11,12) is pivotally attached to the duct connector (20) where the duct member (11,12) is foldable between a working position and a storage position where when the granular distributing apparatus is in the storage position, the duct member (11,12) extends over and is substantially parallel to the top (21) of the container (40; See Figure 5).

In regard to Claim 30, Wang additionally teaches where the locking member (32) and the duct member (11, 12) cooperate with the duct connector (20) and serve to form a composite cap (30) covering the top of the container (40) when the duct member (11, 12) is in the storage position (closed).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chollet (US 5,065,914) in view of Beckmann (US 2,511,560).

In regard to Claim 18, Chollet (US 5,065,914) teaches a granular distributing device that has a container (1) having a discharge opening (Opening of pouring tube "2" covered by cap "8") to distribute a product where a duct member (2) is connected to the discharge opening (Opening of pouring tube "2" covered by cap "8") and provides a distribution channel for the product where the duct member (2) is foldable between a working position in which the duct member (2) projects away from the container (1) and allows passage of product through the discharge opening (Opening of pouring tube "2" covered by cap "8") along the distribution channel (passageway of tube "2") and a storage position where the duct member (2) is obturates the discharge opening (Opening of pouring tube "2" covered by cap "8") and extends over a top of the container (1) where the duct member is substantially parallel to a top of the container (1) where the distribution channel (passageway of tube "2") is embodied in a tubular shape (See Figures 1-3; "working position"—Figure 1; "storage position"—Figure 3; "intermediate position"—Figure 2 from "storage position" to "working position";).

However, Chollet fails to teach where the distributing apparatus includes a ruffle means at a discharge end of the distribution channel to urge a product to scatter as it discharges from the distribution channel (passageway of tube "2"). On the other hand, Beckmann teaches that it is known to have a distributing device having a ruffle means (118) that distributes and urges granulated material product to scatter as it is discharged

as directed by a user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to provide the discharge opening of (Opening of pouring tube "2" covered by cap "8") of Chollet with the granular distributing device with ruffle means of Beckmann, in order to provide for a manner in which granulated material such as fertilizer could be evenly spread over a desired area to prevent concentrated accumulations of fertilizer.

***Allowable Subject Matter***

Claim 31 is objected to as being dependent upon a rejected base claim, but appears to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

**Rejection under 35 USC § 102**

Applicant's arguments with respect to claims 20-30 and 32 have been considered but are moot in view of the new revised ground(s) of rejection to Wang.

**Rejection under 35 USC § 103**

Applicant's arguments with respect to claims 18 have been considered but are moot in view of the new revised ground(s) of rejection of Chollet in view of Beckmann.

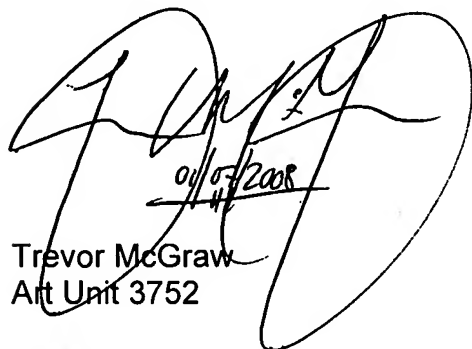
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. De Nervo (US 5,782,388).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

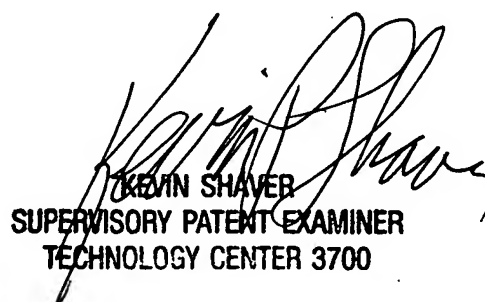
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



01/07/2008  
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